

*Application No. 09/920998*  
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*Amendment*  
*Attorney Docket No. S63.2B-9918-US01*

### **Remarks**

New claims 49-55 have been added. Support for these claims is found on page 2, lines 24-32 and page 3, lines 1-2. No new matter has been added.

Claims 1-42 have been withdrawn from consideration. The Office Action asserts that Applicant's election of Invention II in Paper No. 5 was made without traverse. Applicants would like to note that the election was made *with* traverse.

### **Claim Objections**

Claims 43-48 have been objected to because it is asserted "radiopaque portions" in claim 43 should be "radiopaque regions".

Claim 43 has been amended.

Claims 44-48 depend from claim 43. Applicants respectfully request that the objection to claims 43-48 be withdrawn.

### **Claim Rejections**

#### **35 U.S.C. §102**

Claim 43 has been rejected under 35 U.S.C. §102(e) as being anticipated by Candelaria et al. (US 6,497,646). The Office Action asserts that Candelaria et al. disclose an intravascular device including first radiopaque region being different than second radiopaque region (col. 5, line 54 to col.6, line 15).

Claim 43 has been amended and is now directed to an implantable medical device having a plurality of radiopaque regions comprising a particulate radiopaque material, the implantable medical device including a first radiopaque region and a second radiopaque region, the first and second radiopaque regions of different radiopacities. Support for the amendment is found on page 2, lines 12-13. No new matter has been added.

Candelaria et al. describe a unidummy intravascular radiotherapy source ribbon assembly including a core comprising one or more sections having a first radiopacity and one or more sections having a second radiopacity.

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Candelaria et al. fail to disclose all of the limitations found in claim 43 as amended, specifically, Candelaria fail to disclose the use of particulate radiopaque material. Consequently, the reference does not disclose all of the elements of the claimed invention as required under 35 U.S.C. §102(b). Applicants therefore respectfully request withdrawal of the rejection of claim 43 under 35 U.S.C. §102(b) as being anticipated by Candelaria et al., US 6497646.

***35 U.S.C. §103(a)***

Claims 44-48 have been rejected under 35 U.S.C. §103(a) as being unpatentable over Candelaria et al. '646 in view of Mawad (5,498,227). The Office Action asserts that Candelaria et al. disclose a radiopharmacy implant comprising all the limitation as claimed except that the radiopharmacy implant is not in the form of a stent, and Mawad discloses a radiotherapy implant that may be made in the form of an expandable stent to deliver the intended radiation as well as to maintain the patency of for example, a partially occluded, stenotic or strictured duct, vessel, or graining system of a patients body (col. 4, lines 27-61), and that it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Candelaria et al.'s radiotherapy implant by forming the implant in form of a stent in order to delivery the intended radiation as well as to maintain the patency of, for example, a partially occluded stenotic or stricutred duct, vessel, or graining system of a patient's body.

Claim 43 has been amended as described above. Claims 44-48 depend from claim 43.

Candelaria et al. has been discussed above.

Mawad et al. describes a radiotherapy device comprising a radioactive wire adapted to deliver an intended dosage of radiation to a lesion or other selected body tissues. At col. 2, lines 38-42, Mawad et al. state that the elivery wire and the radiotherapy device of the present invention are preferably sufficiently radiopaque so as to enable easy fluoroscopic visualization in the insertion or delivery process.

Neither Mawad, US 6428462, nor Candelaria et al., US 6497646, disclose the use of particulate radiopaque material. Applicants respectfully request withdrawal of the rejection of claims 44-48 under 35 U.S.C. §103(a) as being unpatentable over Mawad in view of Candelaria

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et al.

### CONCLUSION

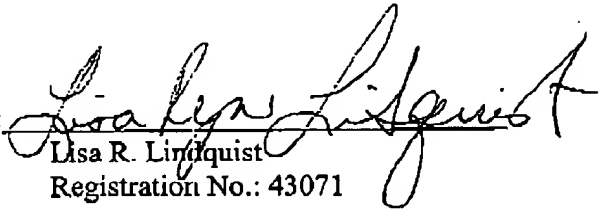
Claims 43-55 are pending in the application. Applicants have addressed each of the issues presented in the Office Action. Based on the foregoing, Applicants respectfully request reconsideration and an early allowance of the claims as presented.

Respectfully submitted,

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